

To: All Interested Parties

December 14, 1999

From: Assistant Commissioner,  
Office of Regulations and Rulings

Subject: Entry Revision Project

I'd like to introduce you to a new initiative here at Customs, which we call the Entry Revision Project, or ERP. It's an overall plan for improving the import entry process to make it more efficient, business-realistic, and less burdensome for all parties involved.

Customs has always been committed to innovation. Ever since the passage of the original Customs Modernization Act (Mod Act) in late 1993, we've been experimenting with ways to make the transition from the traditional transaction-based process to a more realistic account-based process. Much of the progress we could have made has been stifled by the lack of an automated system that can truly support account-based processing. We have nonetheless made significant progress in developing the concepts envisioned in the Mod Act. Most of the progress has been in the lessons we have learned from the various Mod Act prototypes.

Over the past several months, we hosted a series of meetings with Customs officers of various backgrounds and expertise. The participants came from multiple offices within Customs: Field Operations, Finance, Strategic Trade, Information and Technology, and Regulations and Rulings. We concentrated on the issues we discovered, and the solutions to them that we tried. Many aspects of what we've done so far are very valid, but many are not. The recurring theme in the discussions was that flexibility is the key. This means flexibility in law, policy, and of course automated systems design.

With the rapid changes in the international business arena during the 1990s, we find that even with the current Mod Act in place, there are transaction-based limitations that prevent us from making the import entry process everything we would like it to be. Even if ACE were to be built tomorrow, it would be a system largely based on the old way of doing business.

At some point, the funding problems that previously delayed development of our new Automated Commercial Environment (ACE) will be solved. At that point, we will be moving forward in designing the ACE system. It would be advisable for us to be sure of what the system should do before we design it. We currently have a window of opportunity to reshape our legal and policy framework into what it needs to be, and design the new automated system to match that framework.

The Entry Revision Project workgroup consists of people who have worked on the various Mod Act initiatives, and are familiar with all of the issues involved with them. On a daily basis, they speak with field Customs officers and members of the trade community. They have listened to all of the concerns of these groups and have put

together a proposal that addresses these concerns. The attached ERP proposal is intended to be a glimpse of what the import entry process can be if we can all work toward a common goal. Much of the proposal can be implemented simply by changes in policy, but significant portions of it will need statutory and regulatory changes to take effect. In order to put the proposal to work in a meaningful way, new automation will be needed.

To the extent that statutory changes are necessary, if a consensus can be developed this spring on what those changes are, they could be attached to legislation this session. The only way this can realistically occur is if the proposal is non-controversial and the major trade and industry associations are supportive of it. In order to succeed, the actual legislative changes must have the full support of the trade community.

Over the next several months, we're looking to meet with key players and associations to fine tune the proposal and discuss the legislative package. We encourage the groups to work together to reach consensus on this, and work with us to see it through to fruition. This is a very ambitious schedule, but we think this can be achieved. While the Mod Act made changes to many operational areas it left the import entry process largely untouched. This proposal concentrates exclusively on the import entry process, relying heavily on the lessons we have learned and the insight we have gained since the passage of the Mod Act.

We hope to hear from you and work with you to make this happen. If the trade community cannot unite on this issue, it will not happen. Customs can live with that, as we do have an existing legal framework in which to work. But we believe that we, Customs and the trade, both deserve better.

Please review our proposal and discuss it with your colleagues. Questions on ERP may be directed to John Durant at (202) 927-1964 or Don Luther at (202) 927-0915.

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## **Entry Revision Project December 14, 1999**

### **INTRODUCTION**

Since the passage of the original Customs Modernization Act in 1993, Customs has tested a number of the concepts envisioned in it, with varying degrees of success. The biggest impediment to successfully meeting the challenges we face has been the delay in implementing the Automated Commercial Environment (ACE) that would support some of the new concepts better than the Automated Commercial System (ACS).

Aside from the obvious automation problems, we've learned that many of our problems stem from limitations in the legal environment in which we work. This includes limitations built into our current Automated Commercial System (ACS) that are mandated by law.

Much of the progress Customs could make is frustrated by two factors:

1. The current ACS system is not designed to operate along the lines of a business-realistic, post-Mod Act, account based system.
2. Current law, even after the Mod Act, doesn't allow enough flexibility to effectively move to a true account-based approach.

It is possible that the funding problems that have delayed ACE could end soon, and a prime contractor then selected to move ahead with ACE. Assuming this is the case, many feel that there is currently a window of opportunity to come up with a comprehensive set of corrections to the import entry process and add needed flexibility. To devise the operational parameters and then design the new system around them is better than to design a system based on the current legal framework, which is already known to be less than ideal. Even if ACE is further delayed, correcting some of these problems could be helpful in the short term.

If ACE could be built tomorrow, it would still fall far short of meeting the needs upon which Customs and the trade community have agreed. The ACE work done to date has been based on the current Modernization Act. While the Modernization Act made sweeping changes, it left the basic transaction-based structure of Customs commercial operations untouched.

We at Customs believe we have developed a sound proposal that addresses all of the important concerns of the trade, while meeting many of our own needs. It provides for a realistic transition from the current to the desired. With this proposal, we may be able to make real progress now and ensure support for future progress at the same time.

We hope that this proposal will lead to a comprehensive package of legislative, policy, and automated systems changes that support this goal. This document provides a glimpse of what the import entry process could look like after all of these changes materialize. All of this is a work in progress, and more work is needed. Not all interests and areas of concern may have been addressed. Your comments and participation are critical.

## **PART I: CARGO RELEASE AND ENTRY**

This proposal keeps the current entry/entry summary process substantially intact in terms of the data elements required. It would look like the current process as modified by the “four track” approach from ACE, or equivalent.

Track 1: The “Live Entry with Payment” approach will always be needed for one-time, insolvent, and sanctioned importers, and for live quota entries, etc.

Tracks 2 and 3: The current entry/entry summary process. Release is obtained with entry or entry/entry summary data.

Track 4: Release with minimal data, and a periodic follow-up with complete information. This is for importers and commodities considered low-risk. Customs would have the option of removing importers from this track in special circumstances, such as an immediate need to target and examine certain cargo, which requires traditional entry declaration information. This would be done via a mechanism which would allow Customs to examine the profile of companies on Track 4 and remove those with a history or likelihood of importing the kinds of merchandise suddenly under scrutiny. (e.g., a suddenly hot issue involving allegedly poisoned produce would result in all produce companies on track 4 reverting to another track where detailed data are presented for release.) This is appropriate for the situations where the goods must be intercepted and stopped, and finding out about the imports a month later is not an option.

Except for the live entry track, where payment is immediate and a condition of release, all the other tracks would have the same payment system, via the “credit card” approach described in the next part of this document.

Regardless of what kinds of releases are made, all the payment is done separately, but uniformly. This contrasts with earlier plans where a change in release mechanism meant a change in payment mechanism. An importer’s cargo releases are all on a single statement.

As is the case currently, importers will be able to allow their customs brokers to make payments on their behalf, via a master statement.

## **PART 2: THE MONEY**

Every direction we turn, we find that our path is blocked by systemic limitations caused by the required link between money and the specific entry with which it “belongs.”

As the next step in redesigning our import entry process, we should create an environment where the money and the entry can be separated. Until we liberate ourselves from this burdensome and outdated restriction, no real progress will be made. In terms of automated systems design, the Money Management System is a deliverable which may be easier and provide more immediate benefits than others.

Currently, ACS issues massive numbers of bills and refund checks, each in response to some such change to an entry in the system. Each entry of merchandise has its own “account” in our system. This has enabled Customs to properly manage the large sums of money involved in international trade, but has also created a complicated array of processes and tracking requirements that are increasingly at odds with operations of businesses and the ways Customs regulates them.

Suppose that we were to discontinue generating individual bills and refunds, and instead send the relevant information to a separate Money Management System (MMS). This system would put those transactions on a month-based statement that works like a credit card. The MMS would administer all of the monetary changes, but this would be largely transparent to users. It would still be per-entry changes, money tracked to individual entries, etc. The advantage is that such a system could go into place as one of the first new components, with minimal impact on normal processing until we’re ready.

The savings would be immediate, as we could stop doing many of the tedious labor-intensive processes involved with manual processing of collections, and reduce the systemic costs of transaction-based billing and refunds.

Then, when changes to Customs automated environment allow more flexibility, the MMS would already be structured in a way that handles money separate from entries. It would be an effective way to transition from transaction-based to account-based money processing.

Some details of the Money Management System are shown in the section below.

### **PART 3: THE MONEY MANAGEMENT SYSTEM (MMS)**

This is a "credit card" approach. Each importer's financial statement is like an individual's credit card. This frees us from many problems. With complexities such as post-entry corrections, protests, reconciliation, and drawback, the current system that requires per-entry tracking of money doesn't make sense any more.

When you buy something with a credit card, the elements of the transaction are kept and tracked, but the specific dollars are not associated with that transaction for all eternity. You don't send in individual checks for each purchase you made. Everything gets totaled up and that's what you owe. If you pay early, you avoid interest, if not, you pay more interest. If you return something, you get credit for it on the statement.

Here's an example of some credit card activity:

Joe Customer		Acct: 6601-0123-4567-8901	
Date	Type	Details	+/- Amount
9/5/99	Purchase -	Press Club Liquors	\$23.54
9/7/99	Purchase -	Hechts	\$42.56
9/9/99	Purchase -	M & S Grille	\$31.27
9/10/99	Purchase -	S&R Liquors	\$66.18
9/12/99	Purchase -	Exxon #4415	\$13.52
9/16/99	PAYMENT	CK # 1392	\$ -90.00
9/17/99	Purchase -	Macy's	\$27.77
9/20/99	RETURN	Hechts	\$ -42.56
9/20/99	PAYMENT	CK # 1407	\$ -100.00
Previous Balance.....		\$218.90	
New Charges .....		\$204.84	
Credits/Payments.....		\$232.56	
Interest.....		\$ 21.12	
New Balance.....		\$212.30	

Joe didn't have to write separate checks for each purchase. When he returned the item he bought at Hechts, he didn't get a separate refund check, they offset it against what he owed. Joe could pay it all off, but doesn't have to. If he doesn't, he'll be paying interest. If Joe were so inclined, he could send in separate checks for each thing he bought. The credit card company might be annoyed, but like Customs, they never refuse money.

Here's an example of how this might work for an importer account with Customs.

Joe Importer, Inc.		IMP NO: 88-1234567JJ	
Date	Type	Details	+/- Amount
9/5/99	Formal Entry -	MM0-10293939	\$27145.10
9/7/99	Formal Entry -	MM0-10304040	\$19600.00
9/9/99	Formal Entry -	MM0-16007777	\$ 485.00
9/10/99	Drawback Claim	MM0-10101066	\$ - 6600.23
9/12/99	Liq. Damages	4601-00-10391	\$ 190.00
9/16/99	PAYMENT	CK # 1392	\$ -36000.00
9/17/99	Formal Entry -	MM0-15002933	\$ 7200.53
9/20/99	Chg - Add'l Duty	MM0-02662023	\$ 4518.20
9/20/99	Protest - Part Apprv.	5201-00-9874	\$ -12500.00
Previous Balance.....		\$ 721.18	
New Charges .....		\$ 59138.83	
Credits/Payments.....		\$ 55100.23	
Interest.....		\$ 116.19	
New Balance.....		\$ 4875.97	

The importer can pay whenever they like, just like with credit cards. Outstanding balances are subject to interest. If an importer wanted to avoid any interest, they could pay ahead on their account, and run a credit balance with us. They could guess what their monthly billing would be, and pay us half up front and half at the end. Like credit cards, Customs would not pay interest on positive balances. In any case, interest would be calculated using an Average Daily Balance formula, just like the credit cards use.

The declarations would all still be on file, and completely verifiable. For a drawback claim, they still provide the data about what came in and what went out, but separate from the financial statement.

For each importer, this credit card statement system would apply. Importers who didn't wish to deal with such things could authorize their Customhouse Broker to make their duty payments, just as they do now.

It should be noted that the money management part of the Entry Revision Project is newest in terms of planned elements to be redesigned. There will be many details to work out along the way. Above all, the important thing is to reach consensus on legal authority for implementing framework in general. Customs has certain responsibilities for properly safeguarding the revenue, including the proper administration of interest. Once the framework is set, however, the exact features of the "credit card" approach details can be tuned for proper interest collection. These include posting date, interest rates, payment dates, and others.

#### **PART 4: CORRECTIVE PERIOD**

After filing entry summaries, the filer should have time to retransmit their ABI information to make necessary corrections. Currently our proposed timeline for this is 30 days. This feature would replace the current Supplemental Information Letter (SIL) system.

Currently, if corrections to the entry or entry summary data are needed, filers often have to send paper corrections manually. These changes then must be manually processed by Customs officers. Often, the results are unpredictable, and the importer or broker has no good way of being sure of whether the corrections they reported were actually processed.

By allowing a corrective period for retransmission, routine corrections could be transmitted by the filer in the same way they transmitted the original entry. The acceptance and feedback from Customs could be as fast as the cycle time of the original entry filing. These corrections, rather than requiring tedious manual processing at Customs, could be recorded and tracked by the system.

Routine, frequent corrections would not necessarily indicate non-compliance. It requires evaluation within the context of the company's practices and operational realities. Rules-based logic in our system would be useful in allowing us to detect problematic corrections, while not penalizing filers for the routine corrections that indicate responsible reporting and reasonable care.

Often the subject of a SIL is a landed quantity discrepancy. Situations where all of the shipment's documentation said "10000 pieces" but actually the box contained 10004 pieces represent "letter of the law" discrepancies that should be corrected. In reality, the importer and broker have no control over what goes into the box overseas. Making these fixes should be easy and convenient.

Although it may appear to be a weakening of our enforcement posture, it is actually an enhancement. Currently, we have a very rigid "must be correct at entry" mentality. While this is laudable in a perfect world, the reality is that complete accuracy is not always possible. As a result, we have rules that even the most responsible of importers and brokers find themselves unavoidably breaking. Some flexibility in this area will enable us to focus on what is important. The corrections we receive are currently not tracked or reported to Census, because they are completely manual. Through correction of the entry summary data itself, we could better provide timely and accurate data to Census.



## **PART 5: SUMMARY AND BEYOND**

### Is Liquidation Obsolete?

Liquidation is an entry-based concept. It has always been necessary in the world of individual entries for all involved parties to ascertain which issues are liquidated and which are not. Failure to appreciate this leads to costly and time-consuming litigation.

In evolving the entry process to more adequately address business realities, the Reconciliation Prototype has shown that more time and flexibility are often needed in order to perfect import declarations. However, the entry-based liquidation paradigm has severely limited flexibility. In order to address issues after filing of entry summary, whether en masse or individually, all parties must know whether the issue(s) are open or closed. Under reconciliation, the issues that need changing are kept open by having them flagged for the reconciliation process. Without this, there is no legal notice of which issues are open, and therefore no legal mechanism to make corrections.

This has proven quite problematic. Often, the question of which issues are unresolved is itself unresolved at the time the entries should be flagged. Moreover, issues do not exist in isolation. Changes in value can affect eligibility for trade programs, changes in value can even affect merchandise classification.

When importers undergo Compliance Assessments, the Compliance Assessment Teams (CATs) occasionally find compliance problems that have resulted in loss of revenue to the government. If the entries involved have already liquidated, the only recourse for Customs to recoup the lost revenue is via a claim under 19 U.S.C. 1592(d), which amounts to opening up a fraud case against the importer. This is routinely done in circumstances that do not merit a fraud case, simply because it's the only way.

This proposal advocates eliminating the concept of liquidation, and replacing it with the concepts of *Finality of Declaration* and a routine Customs review period of three years.

By eliminating liquidation and going to a longer but simpler “review period,” we can “normalize” the corrective actions described above. Contrary to how the fraud case option works, the importer could protest such an assessment made during the review period.

The three-year review period may at first seem frightening to importers, but Customs already has the authority to extend entry summaries' liquidation up to 4 years. Demands for duty under 19 U.S.C. 1592(d) have even longer parameters.

### Why Three Years?

- Matches IRS review period
- Fully supports the post-audit mode of verifications
- Enables CAT teams to assess additional duties in a “normal” mode, that is, without resorting to a “fraud” case.
- Provides importers with clear recourse to additional duties levied in situations such as audits.

### Regular and Extended Tracks

Regardless of which entry track the importer uses, there are two options for handling the post-summary realm. They are the “Regular” and the “Extended” options. These correspond roughly to the “Normal” and “Reconciliation” options in the current world.

In order to have the “Extended” option, the importer must apply, and meet certain requirements. These would be separate from the qualifications needed for minimal-information release. A company could even be on a “high enforcement risk” release track, and still use the extended option for summary processing. Often, companies have been considered “high risk” precisely because they have not properly reported certain aspects of their transactions, which the Extended Option would allow.

Just as with Reconciliation, additional surety bond coverage may be required for the extended option, to secure the extra period of time being allowed for corrections.

Basically, the entry summary is left much as it is now (although the money has been separated) for both the regular and extended options. Importers who routinely have outstanding issues on their entries could participate in the extended option, which allows them a longer corrective period

During the corrective period, the importer has the option to report changes to the elements declared on the original entry summary (or equivalent) transmissions. Unlike the current entry and issue-based Reconciliation Prototype, the Extended Option would be available for a broad array of issues, addressed on a fiscal-year basis. Issues currently not allowed under Reconciliation would be allowed under the Extended Option. No flagging of individual entries or issues would be required. Corrections to an importer’s declared activity could be done on a fiscal year basis, without regard to which entries and entry types were involved.

The Extended Option would act to extend the 30-day corrective period to include the importer’s entire fiscal year and time for filing the corrective data. (Currently 15 months under Reconciliation.)

#### **Regular Option**

Entry summary or equivalent filed after cargo release

Importer has 30-day corrective period to amend declarations

At end of 30 days, each entry summary (or equivalent) declaration is considered “final”

Three year Customs review period begins. (Customs actions are protestable)

#### **Extended Option**

Entry summary or equivalent filed after cargo release

Importer’s 30-day corrective period is extended to 15-months (Based on importer’s stated fiscal year).

During extended corrective period, importer/filer may make corrections based on new information, file a “Yearly Customs Return” prior to end of 15 months, at which time declaration is considered “final”

Three year Customs review (Customs actions are protestable)

## Build-As-You-Go Mega-Summary

Ideally, the individual transactions as reported on entries or monthly summaries, could be rolled up into a “Mega-Summary” inside the Customs system.

The idea is that Customs would have the master rolled-up report of all the importer’s activity, with total dollar figures. It would be like a Reconciliation Aggregate Spreadsheet for the importer inside Customs computer. It’s called “Build-As-You-Go” because it would be updated with each new transaction.

Why do this:

- Instant on-demand profile by account for all importers.
- Importers and brokers could get ABI feedback of this and use it as comparison or baseline for their Yearly Customs Return, if they’re using Extended Option.
- With an already built Mega-Summary, and with the proper legal authority, Customs could make changes at this aggregate level, just as the importer would have such authority. If values changed by a fixed factor across the board, such changes could be made at such aggregate level. An importer could file a per-entry or aggregate correction. Customs could also do such aggregate corrections. If we find a problem with an importer, or have to retroactively apply some trade program etc., rather than dig into finding and working all those entries, we just take it off the top (or add it onto the top) just like we let the importer do. Contrast this with our current requirement of unsettling liquidation on hundreds of entries and making small changes to each of them.
- If changes are still required at the entry level, (assuming drawback still will contain such restrictions), then the importer (or Customs) can make such changes to individual entries, and these changes would also be reflected on the Mega-Summary.

## **Entry Revision Project**

### **Questions and Answers**

- Q. Why is Customs doing this?
- A. Our experience over the past several years has shown us that the current entry processes lack the flexibility needed to cope with modern business realities. There has been much criticism in the newspapers in recent months about the Trade not getting what it wanted from the Mod Act. While we agree that progress has been slower than we had hoped for, Customs believes there is no consensus within the various trade groups, let alone between the groups, as to how they want the entry process to work. Customs believes that now is the ideal time to try to seek that agreement, identify any necessary statutory changes and seek legislative changes to support further modernization of the import entry process, if necessary. Hopefully, the pace of ACE development will quicken soon. Customs and the Trade have conducted many prototypes of operational systems. Some have worked well and others haven’t. We need to jointly assess those prototypes and see what assumptions made in the Mod Act negotiations need updating.
- Q. Why re-invent liquidation?

- A. We are not alleging that there has been a flood of proposals to eliminate the current liquidation concept. However, what we have heard is general Trade agreement that “flagging” entries in the reconciliation process is too cumbersome and that the Trade wants more flexibility in reporting updated entry information. As we have analyzed those Trade concerns, many in Customs and some in the trade have concluded that the “flagging” problems are closely linked to the liquidation requirements and maybe the time has come to reconsider the liquidation process. Liquidation limits the flexibility of Reconciliation in that all parties must be sure which issues and entries are liquidated and which are not. This requirement necessitates flagging individual entry summaries for specific issues. More issues and entries are precluded from proper adjustments than desired.

Problems discovered after final liquidation often cannot be corrected. There are plenty of situations where the importer had discovered s/he has paid too much duty, or that antidumping duties were improperly assessed, but the entries are liquidated and there is no legal mechanism for Customs to generate the needed refund.

Changes affecting revenue discovered during Compliance Assessments are often processed through channels intended for fraud cases, even when a full-blown fraud case would not be otherwise considered. This is due to the lack of “normalized” methods for making such corrections. There must be a better way.

- Q. Landed quantity discrepancies have been a huge problem for everyone. How would this proposal help?

- A. In this proposal, filers would have a 30-day time window to retransmit the ABI entry summary information with corrections. This is a suitable mechanism for making such routine changes. It uses existing procedures for transmitting data, and provides easy electronic processing of the information for both the filer and Customs.

For quantity problems that are not correctable within the first 30 days, the importer would be able to participate in the Extended Option, which is fundamentally like Reconciliation but would be much more flexible. For example, no flagging of specific entry summaries for specific issues would be required (with the removal of liquidation), and the scope of issues allowed would be broad enough to allow for quantity changes.